herein, certainly would not justify the conclusion that the Department of Liquor Control had authority to charge a registration fee of five dollars ($5.00) for the registration of salesmen employed by "K" permit holders. Moreover, there being no express grant of power in these statutes for the Department to charge the registration fee of the kind mentioned in your letter, there can be no implied power to impose such a fee. Likewise, the power to issue "K" permits does not impliedly authorize the Department of Liquor Control to impose a registration fee for the registration of salemen employed by the holders of such permits. As a usual rule the imposition and collection of a fee for the registration of a person by a public board or officer is a matter of express statutory authority and is not a power which is generally implied from some express power. See Sections 647, 654-4, 1335-8, 1335-10, 2778, 3006, 5820, 6349 and 13169.

Finding no express or implied authority for the Department of Liquor Control to impose a charge for registration of salesmen of warehouse receipts employed by "K" permit holders, and since any doubt as to the power of a public officer as between himself and the public must be resolved in favor of the public, (*State, ex rel. Bentley* vs. *Pierce,* 96 O. S. 44, 47) it is my opinion that the Department of Liquor Control cannot impose and charge a fee for the registration of salesmen employed by the holders of "K" permits.

In view of this conclusion it is not necessary to answer your second question. Likewise, I am not at this time passing upon the question of whether the Department of Liquor Control has the authority to compel salesmen of warehouse receipts for whiskey employed by holders of "K" permits to register with the Department of Liquor Control.

Respectfully,
JOHN W. BRICKER,
Attorney General.

4972.

CONSTITUTIONAL PROVISION—SENATE BILL NO. 368, IF ENACTED, CONSTITUTIONAL (O. A. G. 1933, VOL. I, P. 675, AFFIRMED).

SYLLABUS:

Senate Bill No. 368, *if enacted into law, will not authorize a reduction of the amount of indebtedness which the state of Ohio may incur under the Constitution, nor would such act in any way impair or reduce the credit of the state of Ohio. (Opinion appearing in Opinions of the Attorney General for* 1933, *Vol. I, page* 675, *affirmed).*

COLUMBUS, OHIO, December 7, 1935.

HON. WILLIAM H. HERNER, *Chairman, Senate Finance Committee, Columbus, Ohio.*

DEAR SIR:—This is to acknowledge receipt of your letter of recent date in which you advise that the Senate Finance Committee has adopted a resolution requesting my opinion as to whether or not Senate Bill No. 368, attached thereto, if enacted into law, will reduce the amount that the State of Ohio can borrow under the Constitution and whether or not such an act will in any way impair or reduce the credit of the State of Ohio.

Senate Bill No. 368, referred to in your communication reads as follows:

> "The adjutant general, with the approval of the governor, is hereby authorized and empowered to erect an armory in or near the city of Cleveland. The adjutant general is authorized to accept gifts, donations, or grants of money, labor and property for such purpose from the government of the United States, and to contract in the name of the state of Ohio with said government of the United States for the loan of an amount not in excess of $650,000.00 as the state's share in the cost of the erection of said armory; provided, however, that the re-payment of said loan to the government of the United States is to be made only out of proceeds, profits, revenues, or rentals accruing to the state of Ohio from and as a result of the operation, use, and ownership of said armory."

In an opinion of this office appearing in *Opinions of the Attorney General for* 1933, Vol. I, page 675, it was held as set forth in the syllabus:

> "1. Within constitutional limitations, the state of Ohio is as capable of becoming obligated by contract as is an individual.
>
> 2. Obligations of the state of Ohio, to be satisfied from revenues or profits accruing to the state in connection with the operation of, or as an outgrowth of, the property or project for which the obligation was created is not a 'debt' as that term is used in Sections 1, 2 and 3 of Article VII of the Constitution of Ohio.
>
> 3. The power of the state to contract is a legislative prerogative, and no executive officer of the state can contract for it without legislative or constitutional authority.
>
> 4. Under existing law, the Governor of Ohio is without power to bind the state of Ohio on a contract to reimburse the federal government from profit accruals for moneys expended by it in furtherance of conservation projects on publicly owned land within the state.

5. A proposed contract between the state of Ohio and the federal government whereby the state of Ohio becomes obligated to reimburse the federal government in part, for money expended by the federal government on emergency conservation work projects on publicly owned lands within the state, said reimbursement to be made in the event and to the extent only, of direct profits realized by the state from such conservation work, will not, if entered into according to law, contravene the inhibition contained in the Constitution of Ohio upon the contracting of debts by the state."

It is apparent that the above opinion is directly pertinent to and I believe dispositive of your question. After referring to Section 1, Article VIII of the Constitution, limiting the state in contracting debts to supply deficits or failures in revenues and expenses to an amount not exceeding $750,000.00, as well as to Sections 2 and 3 of the same article, the following discussion is contained in the opinion as appearing on p. 678:

"If the obligation of the state which will be created in the event the state enters into a contract to reimburse the federal government, as proposed, creates a 'debt' of the state such contract clearly comes within the inhibition of the Constitution upon the creation of debts, as provided by the section quoted above.

It will be noted from the terms of Mr. Fechner's telegram that the state is not asked to assume an obligation to repay the federal government any moneys except such as will be realized from 'a direct profit from the sale of the land or its products.'

It is well established by the great weight of authority that a municipality or other political subdivision as well as a state, does not create an indebtedness or liabilities within the meaning of a constitutional or statutory debt limitation by acquiring property or assuming obligations to be paid for wholly out of income or revenue to be derived from the property purchased or the project for which the obligation is assumed. This question was directly passed upon by the Supreme Court of Ohio in the case of *Kasch* vs. *Miller, Supt.*, 104 O. S. 281."

The express provision contained in Senate Bill No. 368 that the repayment of the $650,000 00 loan therein authorized to be made by the state is to be paid only out of proceeds of profits, revenues or rentals accruing to the state in the operation, use and ownership of the armory expressly precludes the incurring of any indebtedness or liability on behalf of the state within the meaning of constitutional limitations thereon.

The situation, in my judgment, is exactly analogous to that under con-

sideration in my 1933 opinion, supra, and in my opinion, Senate Bill No. 368, if enacted into law, will not authorize a reduction of the amount of indebtedness which the state of Ohio may incur under the Constitution, nor would such act in any way impair or reduce the credit of the state of Ohio.

Respectfully,
JOHN W. BRICKER,
Attorney General.

4973.

HIGHWAY DEPARTMENT—CONTRACT FOR PURCHASE OF AUTOMOBILE FROM HIGHWAY FUNDS FOR SOLE USE OF GOVERNOR ILLEGAL—ALTERNATIVE BID—CONTRACT ILLEGAL WHEN AWARDED ON BID CONTRARY TO SPECIFICATIONS.

SYLLABUS:

1. *Where the Department of Highways, in specifications for the purchase of a passenger automobile, invites proposals from bidders for the furnishing of a* 1935 *model Lincoln-Judkin automobile with allowance for trade-in of its old Cadillac sedan automobile, and one of the bidders submits an alternative bid, proposing to furnish a* 1934 *model Lincoln-Judkin automobile with allowance for a trade-in on said old automobile, and said alternative bid is accepted by the said Department of Highways, and a voucher is drawn for payment of the price of the alternative bid, such voucher does not constitute a legal claim for payment from the state treasury by the Auditor of State.*

2. *Highway funds coming from special excise tax moneys in the state highway construction fund, state maintenance and repair fund, and the state gasoline tax excise fund, may not be used for the purchase of automobiles to be used exclusively by the executive or any other department of the state government (other than the highway department).*

COLUMBUS, OHIO, December 9, 1935.

HON. JOSEPH T. TRACY, *Auditor of State, Columbus, Ohio.*

DEAR SIR:—I am in receipt of your recent request for an opinion which reads:

"We respectfully request your written opinion upon the following questions:

Voucher No. 32899, Highway Department, dated November